

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

Yvonne Caldwell
125 West Falconer Street
Falconer, NY 14733

Plaintiff

vs.

Patterson-Erie Corporation
1250 Tower Lane
Erie, PA 16505

Burger King Corporation
5505 Blue Lagoon Dr.
Miami, FL 33126

Defendants

COMPLAINT

CIVIL ACTION NO. 1:16cv294

JURY TRIAL DEMANDED

Plaintiff, Yvonne Caldwell, for her Complaint against Defendants, respectfully alleges that:

JURISDICTION AND VENUE

1. Subject matter Jurisdiction exists as against the defendants pursuant to the diversity statute, 28 USCA Sec. 1332, in that (a) plaintiff is domiciled in, and is a citizen of, the State of New York; (b) defendant, Patterson-Erie Corporation, is a domestic corporation, authorized to do business in the Commonwealth of Pennsylvania and which maintains its principle place of business in the Commonwealth of Pennsylvania; and (c) Defendant, Burger King Corporation, is a domestic corporation, organized under the laws of the state of Florida, with its principal place of business (corporate headquarters) located in Miami, FL; and (d) the amount of controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.
2. Venue in this court is proper pursuant to 28 USCA Sec. 1391, in that subject matter jurisdiction is founded only on diversity of citizenship, the claim arose in this judicial district, the Western District of

Pennsylvania, and one of the defendants, Patterson-Erie Corporation, has its principal place of business in this district.

FACTS

3. Plaintiff is a resident of the state of New York.
4. Defendant, Patterson-Erie Corporation is a domestic Pennsylvania corporation, and a franchisee of Burger King Corporation, with its principal place of business on premises located at, 7517 West Ridge Road Fairview, PA 16415.
5. Defendant, Burger King Corporation is a foreign corporation, organized and existing under the laws of the state of Florida, with its principal place of business on premises located at 5505 Blue Lagoon Drive Miami, FL, 33126.
6. Defendant, Burger King Corporation, is a franchiser to Patterson-Erie Corporation of the right to operate certain Burger King restaurants, including the one located at 7517 West Ridge Road Fairview, PA.
7. Defendants are owners and/or operators of certain premises known as a Burger King restaurant located at 7517 West Ridge Road Fairview, PA.
8. Before January 28, 2015, the Defendants negligently created one or more dangerous conditions on this business premises that contributed to Plaintiff's injuries.
9. On or about January 28, 2015, the Defendants negligently permitted one or more dangerous conditions to remain on their business premises for an unreasonably long time.

10. On this date and place, Plaintiff was on the property walking toward an entrance to defendants' business on a walkway created for this purpose when she was caused to fall on ice and be injured as a result of the dangerous conditions.
11. The Defendants knew, or in the exercise of reasonable care should have known, that there were dangerous conditions involving the walkway to the entrance that could result in injury to the users of that Burger King restaurant in Fairview, PA.
12. Plaintiff alleges that the Defendants negligently failed to reasonably inspect the property and detect the dangerous conditions, and/or negligently failed to remove the dangerous conditions within a reasonable period of time, and negligently failed to take reasonable precautions to prevent injuries to foreseeable users of the walkway, including plaintiff, as a result of these conditions.
13. Plaintiff, Yvonne Caldwell, was injured and otherwise damaged at the business premises of defendants located at 7517 West Ridge Road Fairview, PA, as a result of the negligence of defendants' owners, officers, employees, or others acting under their direction and control.
14. As a proximate result of the aforesaid negligence of the Defendants, Plaintiff was damaged in Plaintiff's health, strength, and activity, sustaining injury to Plaintiff's body and shock and injury to Plaintiff's nervous system, including a fracture of the humerus, damage to the rotator cuff, and other damage to the connective ligaments and tissues of the right shoulder; possible activation of latent, and/or aggravation of pre-existing, diseases or conditions. Said injuries have caused and continue to cause Plaintiff substantial physical, mental and emotional pain and suffering.

15. As a further proximate result of the aforesaid conduct of the Defendants, Plaintiff was required to and did employ physicians and other health care providers to examine, treat and care for her, and did and continues to incur medical and incidental expenses in an amount, according to proof at the time of trial.
16. As a further proximate result of the said conduct of the defendants, plaintiff suffered loss of earnings and/or loss of earning capacity resulting in economic damage to plaintiff, in an amount according to proof.
17. Plaintiff is still suffering from significant pain, restriction of motion, and weakness in the tissues and structure of the injured arm and shoulder nearly two years after the injury and therefore believes and alleges that the injuries will result in some permanent damage and disability to the Plaintiff, all to Plaintiff's general damage in a sum that exceeds the court's jurisdictional minimum of \$75,000.00 in damages.

WHEREFORE, Plaintiff, Yvonne Caldwell, demands judgment against each or both of the defendants in an amount that exceeds \$75,000.00 compensatory damages, delay damages, interest allowable by law, the costs of this action, and such other relief as the Court deems just and proper.

Dated: December 7, 2016

Respectfully submitted,

S/ Brian Chapin York

BRIAN CHAPIN YORK, ESQ.

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